

PATENT  
Attorney Docket No. 12636.267

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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TECH CENTER 1600/2900

Inventor(s): Sanjeev Redkar ) PATENT APPLICATION  
Serial No.: 10/080,530 ) Group: 1615  
Filed: February 21, 2002 ) Examiner: Amy Pulliam  
Title: Compositions And Formulations of 9-Nitrocamptothecin )  
Polymorphs And Methods of Use Therefor )

TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING REJECTION OVER A PRIOR PATENT

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

SuperGen, Inc., the owner of 100% interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior Patent No. 6,482,830. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1.  For submission on behalf of any organization (e.g., corporation, partnership, university, government agent, etc.), the undersigned is empowered to act on behalf of the organization.

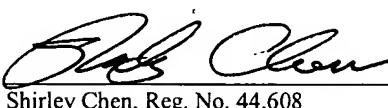
I hereby declare that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further, that these statements are made with the knowledge that willful false statements, and the like so made, are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

2.  The undersigned is an attorney of record.

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Respectfully submitted,  
WILSON SONSINI GOODRICH & ROSATI

Date: Dec. 23, 2003

  
Shirley Chen, Reg. No. 44,608

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Charge Deposit Account 23-2415 the sum of \$110.00 for a large entity for the terminal disclaimer fee and for any deficiency.  
 PTO suggested wording for terminal disclaimer was:

unchanged       changed (if changed, an explanation should be supplied. Explanation:

Changed wording of fee payment to indicate Amount, Deposit Account, and Status of Owner.

>\*Certification under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee.<